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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,633	11/08/2000	Stephen B.H. Kent	TSRI 478.0C1	6210

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01/03/2006

THE SCRIPPS RESEARCH INSTITUTE
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EXAMINER

RUSSEL, JEFFREY E

ART UNIT	PAPER NUMBER
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1654

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/710,633	Applicant(s) KENT ET AL.	
	Examiner Jeffrey E. Russel	Art Unit 1654	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 May 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

See attachment.

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1. In accordance with the Order by the Board of Patent Appeals and Interferences mailed December 7, 2005, the Examiner's Answer mailed August 23, 2005 is hereby vacated.

2. The Appeal Brief filed May 2, 2005 is non-compliant because it lacks an Evidence appendix and a Related Proceedings appendix as required by 37 CFR 41.37(c)(1)(ix) and (x).

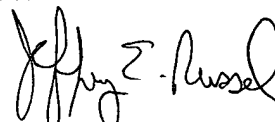
Note that MPEP 1205.02 indicates that if no evidence is to be relied upon by Appellants and if no copies of decisions are being submitted in the appeal, appendices are still required with the indication "none". See page 1200-15, column 2, second and third full paragraphs (Rev. 3, August 2005). Appellants are requested to file a supplemental appeal brief within the time period indicated in the attached Notice.

3. As noted in the Order, the Reply Briefs filed October 31, 2005 and November 28, 2005 raise issues of timeliness in view of the fact that extensions of time under 37 CFR 1.136(a) are not permitted for reply briefs. See 37 CFR 41.41(c). If Appellants wish, they may include any arguments made in the Reply Briefs with the supplemental appeal brief requested above. Alternatively, Appellants may submit a timely Reply Brief in response to the revised examiner's answer also required by the Order.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Bruce Campell can be reached at (571) 272-0974. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.



Jeffrey E. Russel

Primary Patent Examiner

Art Unit 1654

JRussel

December 21, 2005